

**REMARKS:**

**I. Introduction**

In the Office Action mailed on January 13, 2005, the Examiner rejected claims 1 to 3 and 9 to 24. The present amendment cancels claim 9, amends claims 1, 3, 15, 22, and 24, and adds new claims 25 and 26. Accordingly, claims 1 to 3 and 10 to 26 are now pending in this application.

**II Claim Objections**

The Examiner objected to claims 1 and 15 because the term "whereby" instead of "wherein" and to claims 22 and 24 because "liter" should be "litter". Claims 1, 15, 22 and 24 have been amended to correct the items cited by the Examiner. Reconsideration and withdrawal of the objection is requested.

**III. Claim Rejections Based on 35 U.S.C. § 103**

The Examiner rejected claims 1 to 3, 9 to 11, 15 to 19, and 21 to 24 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340).

Independent claim 1 and claims dependent therefrom are allowable because they each include the limitations of "a rectangular container having a base wall with sidewalls extending vertically upward from edges of the base wall to form a rectangular-shaped hollow interior space" and "wherein the entrance opening is spaced above a bottom of the container a distance equal to at least forty percent of the height of the container." No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 1. It was the

inventive insight of the present inventor to determine that most cats prefer to urinate in a corner and thus using a container shaped with corners (and not placing the entrance opening at the corners) can further avoid unwanted escape of matter through the entrance opening. Even if an animal does not naturally face the entrance opening, they are likely to urinate toward a corner and thus away from the entrance opening. In contrast, Strubelt discloses a litter box having a circular shell. It was also the inventive insight of the present inventor to determine that the size and location of the entrance opening and the height of the container can be optimized to obtain improved results. The entrance opening of the present invention is located high enough to substantially avoid unwanted escape of matter through the entrance opening and the side walls are high enough so that the animal cannot see over the sidewalls when within the container. The entrance opening is also far enough from the litter and close enough to the top opening so that air just inside the entrance opening will be fresher. Most cats peek into an entrance opening and sniff prior to entering. If they perceive that the environment does not have fresh air, they are likely to refuse entry into the container. The optimized size of the sidewalls also allows cats to alternatively exit through the top opening. While cats naturally enter only through the entrance opening because they cannot see over the sidewalls, some cats choose to exit over the sidewalls thus adding to their comfort in using the litter box and providing desired exercise and amusement. In contrast, Strubelt discloses a litter box having a relatively high sidewall and a lid covering the top opening. Even if the lid is left off of the litter box, the entrance opening closer to the litter than to top opening and thus the interior would quickly be perceived as not fresh by cats and the cats would refuse to enter the litter box. Additionally, it is unlikely that cats would choose to exit over the sidewall due to the height of the sidewall. Reconsideration and withdrawal of the rejection is requested.

Independent claim 15 and claims dependent therefrom are allowable because they each include the limitations of "a rectangular container having a base wall with sidewalls extending vertically upward from edges of the base wall to form a rectangular-shaped hollow interior space" and "wherein the sidewalls form a height of the container which is about fifteen inches." No prior art of record reasonably discloses or suggests the present invention as defined by independent claim 1. See discussion above with regard to independent claim 1. Reconsideration and withdrawal of the rejection is requested.

The Examiner rejected claims 12 and 20 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340) in view of Denesuk et al. (US 6,196,156).

Claims 12 and 20 are allowable as depending from allowable independent claims 1 and 15 as discussed above and independently allowable for novel and nonobvious matter therein. Reconsideration and withdrawal of the rejection is requested.

The Examiner rejected claims 13 and 14 under 35. U.S.C. 103(a) as unpatentable over Strubelt (US 4,352,340) in view of Reid (US Des. 380,880).

Claims 13 and 14 are allowable as depending from allowable independent claim 1 as discussed above and independently allowable for novel and nonobvious matter therein. Reconsideration and withdrawal of the rejection is requested.

#### **IV. CONCLUSION**

In light of the foregoing, it is respectfully submitted that the present application is in a

condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,



Richard M. Mescher  
Reg. No. 38,242

PORTER, WRIGHT, MORRIS & ARTHUR LLP  
41 South High Street  
Columbus, Ohio 43215  
(614) 227-2026  
Fax: (614) 227-2100

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